**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 8637 OF 2006**

Shri Nileshbhai Naginbhai Patel ] .. Petitioner

Versus

1. The Administrator, UT Dadra & Nagar Haveli & 3 ors. ] .. Respondents

Mr. C.M. Kothari for the petitioner.

Mr. Girish Kulkarni with Mr. Swati Deshpande for the respondents No.1 to 4.

**CORAM: S.B. MHASE, &**
**R.S. MOHITE, JJ.**

**DATED: 09TH APRIL, 2007**

**P.C. :**

. Heard Mr. C.M. Kothari for the petitioner.

2. Initially, the grievance was made by the petitioner that even though he has obtained maximum marks in the written examination, he was not called for the interview. This Court directed the respondent to offer an opportunity of an interview. After the petitioner was interviewed, the petitioner was not selected. The petitioner, therefore, amended the Petition making allegations of malafide. What is to be noted is that even in the written examination he did not

obtain maximum marks and was not at the first position in the merit list, but he was on the fourth position. Now, the respondents have produced on record the chart in respect of the selection and the merit list. There were six posts of the Science subject in Gujarati medium. For these six posts, it appears that 16 candidates were considered. Out of these six posts, 43% posts were to be given to the ST candidates, 2% posts were to be given to SC candidates and the remaining 5% posts were to be given to OBC candidates. The seats were not given to OBC and SC candidates because there were no candidates available who had qualified and, therefore, the said seats were given to other candidates. In the merit list of ST, the petitioner stands at Sr. No.3 and in the general merit list, the petitioner stands at Sr. No.16. Since the two posts were to be given to ST candidates, the first two ST candidates have been selected and the petitioner being third one, he was not selected. While considering the case of the petitioner, the candidates who had obtained higher marks than the petitioner were selected and the petitioner, as per the merit list was shown as wait-list candidate No.3. We find that this exercise has been carried out by the respondent No.3 on the basis of the marks obtained by the candidates of different categories in the examination and the interview. They have applied

the percentage properly. When it was found that the petitioner is not eligible to get a seat in the reservation category, he was equally considered for the other category also and he was selected as a wait-list candidate No.3.

3. Taking into consideration the entire exercise carried out by the respondent No.3 what we find is that there are no malafides on the part of respondent No.3 and the entire exercise has been carried out in accordance with the rules of selection. At the eleventh hour, the learned counsel for the petitioner tried to make out a case that if the reserved candidates from other categories were not available, then in those circumstances, the ST candidate should have been considered instead of other candidates being considered. We asked the learned counsel whether there are any Rules to that effect. He was unable to point out any Rule to that effect. Above all, such point has also not at all been raised in the Petition.

4. Thus, taking into consideration the matter from all angles, what we find is that there is no merit in the Petition and it is hereby rejected.

Sd/
**[R.S. MOHITE, J.]**

Sd/-
**[S.B. MHASE, J.]**